

Senate Bill No. 854

Passed the Senate September 8, 2005

Secretary of the Senate

Passed the Assembly September 6, 2005

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 8484.8 of, and to add Sections 8484.75 and 8484.9 to, the Education Code, relating to afterschool programs, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 854, Ashburn. Community learning centers.

Existing law establishes the After School Education and Safety Program to create incentives to establish locally driven before and after school enrichment programs for pupils in kindergarten and grades 1 to 9, inclusive.

Existing law states the intent of the Legislature that federally funded 21st Century Community Learning Centers complement the existing After School Education and Safety Program by utilizing the existing funding provided under that existing program, and to provide the local flexibility needed to implement the federal 21st Century Community Learning Centers program through direct grants. Existing law, in accordance with the 21st Century Community Learning Centers program contained in the federal No Child Left Behind Act of 2001, allocates funds appropriated by the Budget Act of 2002 and prescribes requirements related to the allocation of funds, including that a core funding grant conform to the per pupil rate established by the After School Education and Safety Program, that funding for a grant be allocated in annual increments for a period not to exceed 5 years, that 2nd year core funding be fully allocated if a program achieves no less than 85% of the proposed pupil attendance, and that subsequent year core funding be fully allocated if a program achieves no less than 100% of the proposed pupil attendance.

This bill would revise these percentages of pupil attendance, as specified.

The bill would allocate funds appropriated in the annual Budget Act for purposes of those learning center programs. The bill would set maximum per pupil rates, and maximum total grant amounts for before and after school learning center programs, as specified. The bill would require the State Department of

Education to allocate 15% of the grant amount for fixed program costs, as specified. The bill would authorize the department to permit a grantee to reallocate the funds to program sites upon extraordinary unforeseen events, as specified.

The bill would establish the Advisory Committee on Before and After School Programs for the purpose of providing information and advice to the Superintendent of Public Instruction, the Secretary for Education, and the State Board of Education regarding state and federal policy and funding issues affecting before and after school programs.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 8484.75 is added to the Education Code, to read:

8484.75. The requirements of the After School Education and Safety Program described in Article 22.5 (commencing with Section 8482), apply to the program established by this article, with the following exceptions as applicable:

(a) Sections 8482.5, 8482.55, 8483.5, 8483.55, 8483.6, 8483.7, 8483.75, and 8484.5, do not apply to this article.

(b) Any provision of Article 22.5 (commencing with Section 8482) that is in conflict with, or duplicative of, any provision of this article.

(c) Any provision that is in conflict with applicable federal law or regulations.

SEC. 2. Section 8484.8 of the Education Code is amended to read:

8484.8. In accordance with Part B of Title IV of the federal No Child Left Behind Act of 2001 (P.L. 107-110), funds appropriated in Item 6110-197-0890 of Section 2.00 of the Budget Act of 2002 are available for expenditure as follows, with any subsequent allocations for these purposes to be determined in the annual Budget Act:

(a) The amount of one million dollars (\$1,000,000) shall be available to the department for purposes of providing technical assistance, evaluation and training services, for carrying out

programs related to 21st Century Community Learning Center programs.

(b) (1) An amount of up to three million five hundred thousand dollars (\$3,500,000) shall be available for direct grants, in an amount not to exceed twenty-five thousand dollars (\$25,000) per site, per year, for community learning center programs that serve middle and elementary school pupils for providing equitable access to, and participation in, community learning center programs, according to needs determined by the local community.

(2) The department shall determine the requirements for eligibility for a grant under this subdivision, consistent with the following:

(A) Consistent with the local partnership approach inherent in Article 22.5 (commencing with Section 8482), grants awarded under this subdivision shall provide supplemental assistance to programs. It is not intended that a grant fund the full anticipated costs of the services provided by a community learning center program.

(B) In determining the need for a grant pursuant to this subdivision, the department shall base its determination on a needs assessment and a determination that existing resources are not available to meet these needs, including, but not limited to, a description of how the needs, strengths, and resources of the community have been assessed, currently available resources, and the justification for additional resources for that purpose.

(C) The department shall award grants for a specific purpose, as justified by the applicant.

(3) To be eligible to receive a grant under this subdivision, the designated public agency representative for the applicant shall certify that an annual fiscal audit will be conducted and that adequate, accurate records will be kept. In addition, each applicant shall provide the department with the assurance that funds received under this subdivision are expended only for those services and supports for which they are granted. The department shall require grant recipients to submit annual budget reports, and the department may withhold funds in subsequent years if direct grant funds are expended for purposes other than as awarded.

(c) Up to one million dollars (\$1,000,000) shall be available for direct grants of up to twenty thousand dollars (\$20,000) per

site, per year, for providing family literacy services only to those schoolsites that identify such a need for families of 21st Century Community Learning Center program pupils, and that demonstrate a fiscal hardship by certifying that existing resources including, but not limited to, funding for Title III of the No Child Left Behind Act of 2001, Chapter 3 (commencing with Section 300) of Part 1, adult education, community college, and the federal Even Start Program are not available or are insufficient to serve these families. An assurance that the funds received under this subdivision are expended only for those services and supports for which they were granted shall be required.

(d) Of the remaining funds in Item 6110-197-0890 of Section 2.00 of the Budget Act of 2002, two million five hundred thousand dollars (\$2,500,000) shall be allocated on a priority basis for grants to community learning center programs serving high school pupils, and the remainder of this amount shall be allocated on a priority basis for programs for middle and elementary school pupils.

(e) Grant awards under this section shall be restricted to those applications that propose primarily to serve pupils that attend schoolwide programs, as described in Title I of the No Child Left Behind Act of 2001. Competitive priority shall be given to applications that propose to serve children and youth in schools designated as being in need of improvement under subsection (b) of Section 6316 of Title 20 of the United States Code, and that are jointly submitted by school districts and community-based organizations. Applications to serve pupils in programs that have received grants under Article 22.5 (commencing with Section 8482) shall be funded only when proposing to expand in additional sites or to add pupils to a currently funded site.

(f) (1) Core funding grants for programs serving middle and elementary school pupils in before and after school programs shall be allocated as follows:

(A) For after school programs, seven dollars and fifty cents (\$7.50) per pupil, per day, up to a maximum grant of one hundred twelve thousand five hundred dollars (\$112,500) for each regular school year for each elementary school, and one hundred fifty thousand dollars (\$150,000) for each regular school year for each middle or junior high school.

(B) For before school programs, five dollars (\$5) per pupil, per day, up to a maximum grant of thirty-seven thousand five hundred dollars (\$37,500) for each regular school year for each elementary school, and forty-nine thousand dollars (\$49,000) for each regular school year for each middle or junior high school.

(2) For an after school component of a program, the maximum total grant amount described in subparagraph (A) of paragraph (1) may be increased up to a maximum amount of twice the respective limits specified in that subparagraph, in accordance with the following:

(A) For elementary schools, one hundred thirteen dollars (\$113) per pupil, only for each pupil that exceeds 600 pupils enrolled at the schoolsite for the normal schoolday program.

(B) For middle schools, one hundred thirteen dollars (\$113) per pupil, only for each pupil that exceeds 900 pupils enrolled at the schoolsite for the normal schoolday program.

(3) For a before school component of a program, the maximum total grant amount described in subparagraph (B) of paragraph (1) may be increased up to a maximum amount of twice the respective limits specified in that subparagraph, in accordance with the following:

(A) For elementary schools, seventy-five dollars (\$75) per pupil, only for each pupil that exceeds 600 pupils enrolled at the schoolsite for the normal schoolday program.

(B) For middle schools, seventy-five dollars (\$75) per pupil, only for each pupil that exceeds 900 pupils enrolled at the schoolsite for the normal schoolday program.

(4) A school that establishes an after school component of a program pursuant to this article is eligible to receive a supplemental grant to operate the program during any combination of summer, intersession, or vacation periods for a maximum of the lesser of the following amounts:

(A) Seven dollars and fifty cents (\$7.50) per day per pupil.

(B) Thirty percent of the total grant amount awarded to the school per school year pursuant to this subdivision.

(5) A school that establishes a before school component of a program pursuant to this article is eligible to receive a supplemental grant to operate the program during any combination of summer, intersession, or vacation periods for a maximum of the lesser of the following amounts:

(A) Five dollars (\$5) per day per pupil.

(B) Thirty percent of the total grant amount awarded to the school per school year pursuant to this subdivision.

(6) (A) The department may reimburse a program grantee for up to 125 percent of the maximum total grant amount for an individual school, so long as the maximum total grant amount for all school programs administered by the program grantee is not exceeded.

(B) In order to be eligible for reimbursement, a program grantee that borrows funds for purposes of administering a program established pursuant to this article shall have an established waiting list for enrollment and may borrow only from another program grantee that has met a minimum of 70 percent of its attendance goal.

(7) (A) Funding for a grant shall be allocated in annual increments for a period not to exceed five years. The department shall notify new grantees, whose grant awards are contingent upon the appropriation of funds for those grants, in writing no later than June 15 of each year in which new grants are awarded. A first year grant award shall be made no later than 60 days after enactment of the annual Budget Act and any authorizing legislation. A grant award for the second and subsequent fiscal years shall be made no later than 30 days after enactment of the annual Budget Act and any authorizing legislation. The grantee shall notify the department in writing of its acceptance of the grant.

(B) For the first year of a grant, the department shall allocate 15 percent of the grant for that year no later than 30 days after the grantee accepts the grant. For the second and subsequent years of the grant, the department shall allocate 15-percent of the grant for that year no later than 30 days after the annual Budget Act becomes effective. This 15 percent amount is to be used by a grantee for administrative costs and need not be earned through pupil attendance.

(C) In addition to the funding allocated pursuant to subparagraph (B), up to 15 percent of the initial annual grant award for each core grant recipient may be utilized for startup costs, which funding need not be earned through pupil attendance.

(D) Under no circumstance shall funding made available pursuant to subparagraphs (B) and (C) result in an increase in the total funding of a grantee above the approved grant amount.

(E) Payments to a grantee shall be based on quarterly pupil attendance and expenditure reports, as required by the department. If a report is submitted to the department in a timely manner, payments to a grantee based on that report shall be issued within 30 days if its receipt.

(8) A grantee shall identify the federal, state, and local programs that will be combined or coordinated with the proposed program for the most effective use of public resources, and shall prepare a plan for continuing the program beyond federal grant funding.

(9) A grantee shall submit annual attendance data and results to facilitate evaluation and compliance in accordance with provisions established by the department.

(10) A program receiving a grant under this subdivision is not assured of grant renewal from future state or federal funding at the conclusion of the grant period.

(g) A total annual grant award for core funding and direct grants for a site serving elementary or middle school pupils shall be fifty thousand dollars (\$50,000) per year or more, consistent with federal requirements.

(h) Grants for programs serving high school pupils at schoolsites or sites of other organizations, as determined to be eligible by the department and consistent with the provisions of the 21st Century Community Learning Centers program, shall be available as an annual minimum grant of fifty thousand dollars (\$50,000) per year. Grant funding above the minimum shall be determined in proportion to the average daily attendance of the high school program site or sites to be served and other factors including, but not limited to, proposed attendance and effective use of resources as determined by the department up to two hundred fifty thousand dollars (\$250,000) per year for five years. A grantee that establishes a high school program pursuant to this subdivision shall be subject to annual reporting and recertification as required by the department. After the second year, the department shall reduce funding of programs in which actual attendance is significantly below proposed attendance levels. An evaluation of the program funded pursuant to this

subdivision shall be submitted no later than 180 days after the completion of the second year of the program. The department shall provide the results of that evaluation and work with the Legislature, the Department of Finance, program providers, and other interested parties to adopt or restructure a high school after school program for California that is both programmatically and fiscally sound. Grantees shall be eligible for fourth and fifth year funding consistent with the restructured requirements. Each grantee shall be required to identify the federal, state, and local programs that will be combined or coordinated with the proposed program for the most effective use of public resources and to describe a plan for continuing the program beyond federal grant funding. Grantees shall be required to submit annual attendance data results to facilitate evaluation and compliance with provisions established by the department. Programs receiving grants under this subdivision are not assured of grant renewal from future state or federal funding at the conclusion of the grant period.

(i) Notwithstanding any other provision of law, and contingent upon the availability of funding, the department may adjust the core grant cap of any grantee based upon one or both of the following:

(1) Amendments made to this section by the act that added this subdivision.

(2) The demonstrated historical earning pattern of the grantee. If an adjustment based upon the demonstrated historical earning pattern of the grantee results in a reduction, that adjustment shall be based upon at least two years of historical earning pattern data for the affected grantee.

(j) Funds received but unexpended under this article may be carried forward to subsequent years consistent with federal requirements. In year one, the full grant may be retained.

(k) This article shall be operative only to the extent that federal funds are made available for the purposes of this article. It is the intent of the Legislature that this article not be considered a precedent for general fund augmentation of either the state administered, federally funded program of this article, or any other state funded before or after school program.

SEC. 3. Section 8484.9 is added to the Education Code, to read:

8484.9. (a) There is hereby established in the department an Advisory Committee on Before and After School Programs for the purpose of providing information and advice to the Superintendent, the Secretary for Education, and the State Board of Education regarding state and federal policy and funding issues affecting before and after school programs, based on regular and systematic input from providers.

(b) The membership of the advisory committee shall consist of all of the following persons, the majority of whom shall be operators of before or after school programs:

(1) Six persons appointed by the Governor as follows:

(A) Two persons who operate an urban before or after school program.

(B) Two persons who operate a rural before or after school program.

(C) One person from a private foundation or a postsecondary academic institution.

(D) One person representing a unified school district.

(2) Two persons appointed by the Superintendent as follows:

(A) One person who operates a high school after school program.

(B) One person from a private foundation or a postsecondary academic institution.

(3) Two persons appointed by the Senate Committee on Rules as follows:

(A) One person who operates a small elementary after school program.

(B) One person who operates a large middle school after school program.

(4) Two persons appointed by the Speaker of the Assembly as follows:

(A) One person who operates a large elementary school after school program.

(B) One person who operates a small middle school after school program.

(5) The Secretary for Education, or his or her designee.

(c) The advisory committee membership shall be representative of the diversity of before and after school programs, regarding geography, size, and public or nonpublic operation.

(d) The advisory committee members shall select one of its members to be the chair of the committee. It is the responsibility of the chair to act as the conduit between the advisory committee and the Superintendent, the state board, and appropriate staff.

(e) The advisory committee shall nominate, and the state board shall confirm, a staff member to serve as consultant to the advisory committee.

(f) The advisory committee shall meet as frequently as necessary but at least three times each year. The meetings of the committee may be conducted by teleconference.

(g) The members of the advisory committee shall serve without compensation, including for travel and per diem expenses.

(h) The advisory committee shall do all of the following:

(1) Provide information on the status of funding provided for before and after school programs in each fiscal year, including the number of applications received, the number of applications funded, and the amount and timing of committed funding.

(2) Provide recommendations on legislative and administrative action needed to ensure that funding for before and after school programs is allocated promptly to qualified providers of before and after school programs.

(3) Provide information on the quality of services and accountability measures.

(4) Provide information regarding challenges faced by before and after school programs that impede the provision of best possible services.

SEC. 4. It is the intent of the Legislature that the increases in per pupil reimbursement rates and maximum grant awards authorized by this act do not reduce the number of children actually served by a core program during the prior year.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allocate funds appropriated in the Budget Act of 2005 for learning center programs at the earliest possible time, it is necessary that this act take effect immediately.

Approved _____, 2005

Governor